

111TH CONGRESS
1ST SESSION

H. R. 1478

To amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2009

Mr. HINCHEY introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Carmelo Rodriguez
5 Military Medical Accountability Act of 2009”.

1 **SEC. 2. ALLOWANCE OF CLAIMS BY MEMBERS OF THE**
2 **ARMED FORCES AGAINST THE UNITED**
3 **STATES FOR CERTAIN INJURIES CAUSED BY**
4 **IMPROPER MEDICAL CARE.**

5 (a) IN GENERAL.—Chapter 171 of title 28, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 2681. Certain claims by members of the Armed**
9 **Forces of the United States**

10 “(a) A claim may be brought against the United
11 States under this chapter for damages relating to the per-
12 sonal injury or death of a member of the Armed Forces
13 of the United States arising out of a negligent or wrongful
14 act or omission in the performance of medical, dental, or
15 related health care functions (including clinical studies
16 and investigations) that is provided by a person acting
17 within the scope of the office or employment of that person
18 by or at the direction of the Government of the United
19 States inside the United States.

20 “(b)(1) The payment of any claim of a member of
21 the Armed Forces under this section shall be reduced by
22 the present value of other benefits received by the member
23 or the estate, survivors, and beneficiaries of the member
24 under title 10, title 37, or title 38 that are attributable
25 to the physical injury or death from which the claim arose.

1 “(2) A claim under this section shall not be reduced
2 by the amount of any benefit received under
3 Servicemembers Group Life Insurance under subchapter
4 III of chapter 19 of title 38, including any benefit under—

5 “(A) section 1980A of title 38 (commonly know
6 as Traumatic Servicemembers’ Group Life Insur-
7 ance); and

8 “(B) section 1967 of title 38 (commonly known
9 as Family Servicemembers’ Group Life Insurance).

10 “(c) This section shall not apply to any claim arising
11 out of the combatant activities of the Armed Forces dur-
12 ing time of armed conflict.

13 “(d) For purposes of claims brought under this sec-
14 tion—

15 “(1) section 2680(k) does not apply; and

16 “(2) in the case of an act or omission occurring
17 outside the United States, the ‘law of the place
18 where the act or omission occurred’ shall be deemed
19 to be the law of the place of domicile of the plaintiff.

20 “(e) As used in this section, the term ‘a negligent
21 or wrongful act or omission in the performance of medical,
22 dental, or related health care functions (including clinical
23 studies and investigations)’ has the same meaning given
24 that term for purposes of section 1089(e) of title 10.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—

2 The table of sections for chapter 171 of title 28, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

“Sec. 2681. Certain claims by members of the Armed Forces of the United
States.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply with respect to a claim arising on
7 or after January 1, 1997, and any period of limitation
8 that applies to such a claim arising before the date of en-
9 actment of this Act shall begin to run on the date of that
10 enactment.

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